

inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

(1) The monitoring data submitted were recorded in accordance with the applicable requirements of this subpart and part 75 of this chapter, including the quality assurance/procedures and specifications;

(2) For a unit with add-on NO<sub>x</sub> emission controls and for all hours where NO<sub>x</sub> data are substituted in accordance with § 75.34(a)(1) of this chapter, the add-on emission controls were operating within the range of parameters listed in the quality assurance/quality control program under appendix B to part 75 of this chapter and the substitute data values do not systematically underestimate NO<sub>x</sub> emissions; and

(3) For a unit that is reporting on a control period basis under paragraph (d)(2)(ii) of this section, the NO<sub>x</sub> emission rate and NO<sub>x</sub> concentration values substituted for missing data under subpart D of part 75 of this chapter are calculated using only values from a control period and do not systematically underestimate NO<sub>x</sub> emissions.

#### § 97.375 Petitions.

The CAIR designated representative of a CAIR NO<sub>x</sub> Ozone Season unit may submit a petition under § 75.66 of this chapter to the Administrator requesting approval to apply an alternative to any requirement of this subpart. Application of an alternative to any requirement of this subpart is in accordance with this subpart only to the extent that the petition is approved in writing by the Administrator, in consultation with the permitting authority.

### Subpart IIII—CAIR NO<sub>x</sub> Ozone Season Opt-in Units

#### § 97.380 Applicability.

A CAIR NO<sub>x</sub> Ozone Season opt-in unit must be a unit that:

(a) Is located in a State that submits, and for which the Administrator approves, a State implementation plan revision in accordance with § 51.123(ee)(3) (i), (ii), or (iii) of this chapter establishing procedures con-

cerning CAIR Ozone Season opt-in units;

(b) Is not a CAIR NO<sub>x</sub> Ozone Season unit under § 97.304 and is not covered by a retired unit exemption under § 97.305 that is in effect;

(c) Is not covered by a retired unit exemption under § 72.8 of this chapter that is in effect;

(d) Has or is required or qualified to have a title V operating permit or other federally enforceable permit; and

(e) Vents all of its emissions to a stack and can meet the monitoring, recordkeeping, and reporting requirements of subpart HHHH of this part.

#### § 97.381 General.

(a) Except as otherwise provided in §§ 97.301 through 97.304, §§ 97.306 through 97.308, and subparts BBBB and CCCC and subparts FFFF through HHHH of this part, a CAIR NO<sub>x</sub> Ozone Season opt-in unit shall be treated as a CAIR NO<sub>x</sub> Ozone Season unit for purposes of applying such sections and subparts of this part.

(b) Solely for purposes of applying, as provided in this subpart, the requirements of subpart HHHH of this part to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this subpart, such unit shall be treated as a CAIR NO<sub>x</sub> Ozone Season unit before issuance of a CAIR opt-in permit for such unit.

#### § 97.382 CAIR designated representative.

Any CAIR NO<sub>x</sub> Ozone Season opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this subpart, located at the same source as one or more CAIR NO<sub>x</sub> Ozone Season units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR NO<sub>x</sub> Ozone Season units.

#### § 97.383 Applying for CAIR opt-in permit.

(a) *Applying for initial CAIR opt-in permit.* The CAIR designated representative of a unit meeting the requirements for a CAIR NO<sub>x</sub> Ozone Season opt-in unit in § 97.380 may apply for an initial

## § 97.384

## 40 CFR Ch. I (7–1–13 Edition)

CAIR opt-in permit at any time, except as provided under § 97.386 (f) and (g), and, in order to apply, must submit the following:

(1) A complete CAIR permit application under § 97.322;

(2) A certification, in a format specified by the permitting authority, that the unit:

(i) Is not a CAIR NO<sub>x</sub> Ozone Season unit under § 97.304 and is not covered by a retired unit exemption under § 97.305 that is in effect;

(ii) Is not covered by a retired unit exemption under § 72.8 of this chapter that is in effect;

(iii) Vents all of its emissions to a stack; and

(iv) Has documented heat input for more than 876 hours during the 6 months immediately preceding submission of the CAIR permit application under § 97.322;

(3) A monitoring plan in accordance with subpart HHHH of this part;

(4) A complete certificate of representation under § 97.313 consistent with § 97.382, if no CAIR designated representative has been previously designated for the source that includes the unit; and

(5) A statement, in a format specified by the permitting authority, whether the CAIR designated representative requests that the unit be allocated CAIR NO<sub>x</sub> Ozone Season allowances under § 97.380(b) or § 97.388(c) (subject to the conditions in §§ 97.384(h) and 97.386(g)), to the extent such allocation is provided in a State implementation plan revision submitted in accordance with § 51.123(ee)(3)(i), (ii), or (iii) of this chapter and approved by the Administrator. If allocation under § 97.388(c) is requested, this statement shall include a statement that the owners and operators intend to repower the unit before January 1, 2015 and that they will provide, upon request, documentation demonstrating such intent.

(b) *Duty to reapply.* (1) The CAIR designated representative of a CAIR NO<sub>x</sub> Ozone Season opt-in unit shall submit a complete CAIR permit application under § 97.322 to renew the CAIR opt-in unit permit in accordance with the permitting authority's regulations for title V operating permits, or the permitting authority's regulations for

other federally enforceable permits if applicable, addressing permit renewal.

(2) Unless the permitting authority issues a notification of acceptance of withdrawal of the CAIR NO<sub>x</sub> Ozone Season opt-in unit from the CAIR NO<sub>x</sub> Ozone Season Trading Program in accordance with § 97.386 or the unit becomes a CAIR NO<sub>x</sub> Ozone Season unit under § 97.304, the CAIR NO<sub>x</sub> Ozone Season opt-in unit shall remain subject to the requirements for a CAIR NO<sub>x</sub> Ozone Season opt-in unit, even if the CAIR designated representative for the CAIR NO<sub>x</sub> Ozone Season opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit under paragraph (b)(1) of this section.

### § 97.384 Opt-in process.

The permitting authority will issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under § 97.383 is submitted in accordance with the following, to the extent provided in a State implementation plan revision submitted in accordance with § 51.123(ee)(3)(i), (ii), or (iii) of this chapter and approved by the Administrator:

(a) *Interim review of monitoring plan.* The permitting authority and the Administrator will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under § 97.383. A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO<sub>x</sub> emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with subpart HHHH of this part. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

(b) *Monitoring and reporting.* (1)(i) If the permitting authority and the Administrator determine that the monitoring plan is sufficient under paragraph (a) of this section, the owner or operator shall monitor and report the NO<sub>x</sub> emissions rate and the heat input of the unit and all other applicable parameters, in accordance with subpart HHHH of this part, starting on the date